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of Massachusetts

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*Office of Campaign and Political Finance
One Ashburton Place, Room 411
Boston, MA 02108*

Advisory Opinion

September 25, 2001
AO-01-24

Mr. Anthony P. Dias
Lowell Youth Soccer Association
29 West L Street
Lowell, Massachusetts 01852

Dear Mr. Dias:

This letter is in response to your August 21, 2001 request for an advisory opinion regarding what political activities may be undertaken by your Association.

The facts stated in your letter and in your conversations with the office's legal staff are as follows:

The Lowell Youth Soccer Association ("the Association") is a not-for-profit corporation, which is funded through fees collected from the parents of the children who play in the league and through donations from local businesses, some of which are business corporations. The Association is comprised of members who pay dues or ask to be included in the membership list of the organization. The Association has not, in the past, printed newsletters or other membership communications or issued press releases supporting candidates.

The Association would like to send a questionnaire to candidates, choose candidates to support, endorse candidates, and have certain candidates who are supported by the Association come to meetings of the Association to meet members. The Association would like to make expenditures for refreshments for these "meet the candidate" evenings.

Questions / Answers

You have asked a number of questions, which relate to four issues:

(a) May the Association hold "meet the candidate" evenings?

Answer: Yes, provided that the Association's expenses for this purpose are consistent with the exercise of ordinary hospitality.

(b) May the Association endorse selected candidates?

Answer: Yes.

(c) May the Association provide endorsement letters to candidates?

Answer: Yes.

(d) May the Association publicize its endorsements?

Answer: Yes, but if such publication involves expenditures specifically designed to promote such endorsements, the publication cannot be circulated beyond the scope of its membership.

Discussion

1. Relevant Statutory Framework

M.G.L. chapter 55, section 8 prohibits business corporations from directly or indirectly giving, paying, expending, contributing or promising to give, pay, expend or contribute, any money or other valuable thing for the purpose of aiding, promoting or preventing the nomination or election of any person to public office, or aiding or promoting or antagonizing the interest of any political party.

Generally, section 8 does not prohibit a not-for-profit corporation formed under the provisions of M.G.L. chapter 180 from making political contributions. When a not-for-profit corporation receives monies from business corporations, however, section 8 does prohibit the not-for-profit corporation from making political contributions due to the prohibition of indirect corporate contributions. See advisory opinion AO-91-31.

M.G.L. chapter 55, section 1 defines a contribution as “a contribution of money *or anything of value* to an individual, candidate, political committee, or person acting on behalf of said individual, candidate or political committee, for the purpose of influencing the nomination or election of said individual or candidate.” [Emphasis added]. Excluded from the definition of a contribution, however, is “the exercise of ordinary hospitality”.

“Ordinary hospitality” refers to “the common, average or unexceptional reception and or entertainment of guests.” See advisory opinion AO-93-17. Business or professional corporations or not-for-profit corporations, even if funded by business or professional corporations, may make expenditures to provide “ordinary hospitality”.

The expenses, however, should be minimal and cannot include any services that would exceed the scope of ordinary hospitality. For example, a corporate host could provide coffee and donuts or wine, cheese and crackers as well as a meeting place for a reception at which a candidate will appear. The corporate host could not, however, issue printed invitations to the event, publicize the event in a manner that would directly or indirectly promote a candidate’s nomination or election, or make excessive expenditures in connection with the event as these actions would exceed the scope of ordinary hospitality.

M.G.L. chapter 55, section 1 provides an additional exception to the definition of “contributions” and “expenditures”. Section 1, clause 14 states that “communications from a membership organization, not including a corporation subject to section eight, to its members and their families on any subject shall not be deemed to be a contribution or expenditure.”

A membership organization, therefore, may expend money to communicate to its members or their families to advocate the election or defeat of candidates, even if the organization receives funds from business corporations. Such communications may only be sent to the organization's membership. See advisory opinion AO-00-05, a copy of which is enclosed.

2. Analysis

Because the Association is a not-for-profit corporation that receives contributions from local area businesses, some of which are business corporations, it is prohibited by Section 8 from making contributions to candidates¹. The Association may, however, host a "meet the candidate" evening if the Association limits its expenditures to those consistent with the exercise of ordinary hospitality.

Further, the Association may send out a questionnaire and issue endorsement letters to candidates in furtherance of its internal process of selecting candidates for endorsement. The Association may publicize endorsements in communications with its members and their families. Because the Association does not customarily issue press releases on other issues, it should not do so in this instance. See AO-00-05.

The opinion provided in this letter is strictly within the context of the Massachusetts campaign finance law and is provided solely on the basis of the representations made in your letter and in your conversations with OCPF staff as set forth herein. You may wish to contact the Internal Revenue Service for more information regarding whether the contemplated activity would affect your status as a not-for-profit corporation.

Please contact us if you have any further questions. Thank you for your interest in the campaign finance law.

Sincerely,

A handwritten signature in cursive script that reads "Michael J. Sullivan". The signature is written in dark ink and is positioned to the left of a vertical line.

Michael J. Sullivan
Director

MJS/td
Enclosure

¹ Opening a separate bank account segregated from donated corporate funds would not affect the conclusions reached in this matter. Allowing an organization to make contributions to candidates by using non-corporate funds that have been segregated from corporate funds would allow business and professional corporations to make prohibited indirect contributions to candidates. See AO-00-05.